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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,211	06/25/2001	Guy A. Story	2541P007C	2684

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EXAMINER

DINH, DUNG C

ART UNIT PAPER NUMBER

2153

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/892,211

Applicant(s)

STORY ET AL.

Examiner

Dung Dinh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-70 and 72-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-70, 72-78 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments filed 2/9/2006 have been fully considered but they are not persuasive.

Regarding claim 34, 34, 68 and 69, Applicant argued that Fernandez content is stored on CD-ROM; hence, Fernandez does not teach storing in the playback device episode published at a first time and automatically updating the episode published at a second time.

While what applicant assert is true. Fernandez content database is on CD-ROM; hence the content are fixed at the time the CD-ROM was created. However, the argument is not persuasive because a reasonable broad interpretation of Fernandez read on the claim as recited. The term 'publish' generally means to issue or to distribute some type of content. Fernandez teaches that only portion of the content (pages) from the CD-ROM is stored (e.g. issue/distribute) to the playback device. The playback device requests additional content (pages) after a certain number of pages has been read (i.e. consumed). The subsequent pages are 'issued' or 'distributed' from the CD-ROM to the playback device. Hence, from the playback device point of view, the subsequent pages are 'published' at a second time

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different from the 'published' time of the pages they replaced. Each pages of Fernandez corresponds to an episode as claimed.

Regarding claim 68, applicant argued that the claim requires storing of multiple subsets of content; each of which may be independently updated as portions are consumed. The argument is not persuasive because the claim recites 'multiple content files'. There is nothing in the claim to preclude the reading of each 'page' of Fernandez to be a 'content file' as claimed. Each page stored in the playback device is stored in memory somewhere; hence each page has allocated portion of memory. Certain pages that had been read are replaced with new pages retrieved from the CD-ROM. Hence, new pages are stored in the memory portions allocated to the pages that had been read.

Regarding claim 32 and 34, applicant argued that Fernandez does not teach select a playback time for an episode or subsets of digital content. The argument is not persuasive because the claim does not because claim 32 recites "wherein the episode is no greater than a predetermined playback time" and claim 34 recites "wherein ... the first ... and the second ... subset ... provide a playback time approximately equal to a playback time of the first subset...". Hence, the claims do not requiring selecting a playback time; they only recite a character or property of the data. Fernandez teaches providing the content

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in pages. Each page hence inherently has a certain 'playback time' - e.g. the average time it take a user to read a page. Each new page and the page replaced hence have approximately equal playback time as claimed.

Regarding claims 40-64 and 70, applicant argued the multiple titles limitation similar to the argument made for claim 68 above. The argument is not persuasive because claim 40, for example, recites retrieving and storing multiple titles, but did not specify what and where the titles are store. This limitation therefore reads on the creation of Fernandez's CD-ROM database. The claim further recites, "storing a subset of one or more of the multiple titles in a playback device." Hence, the claim only requires storing one, not multiple titles as asserted by applicant.

Regarding claims 35-39, Applicant argued that Mighdoll does not teach a retrieving device and a playback device. The Examiner cited Mighdoll WebTV server as corresponding to the claimed retrieving device. Applicant argued that the WebTV server is not a retrieving device because it is not part of the client-side system. The argument is not persuasive because the limitation argued in not in the claim. Nothing in the claim requires the retrieving device to be part of the client-side system. Furthermore the WebTV can be considered to be part of

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the client system because it acts on behalf of WebTV devices (playback devices) to retrieve content from content servers and provide content to the WebTV devices. WebTV devices are coupled to the WebTV server (via network connections) to store and playback content coupled to the WebTV server. Thus, the combination of Munyan, Mighdoll, and Belove teach all the limitation of the claims as recited.

Regarding claims 65-67 and 72-78, the examiner had provided obvious motivation to provide multiple contents in the rejection. Regarding the pointers limitations. The usage of pointers to the head (read or 'current consumption position') and tail (write) position is notoriously well known in the art. Hooper is one example showing such usage in a video program playback environment. Hooper specifically describe only one video program buffer at the playback device. However, it is well known in the art to provide device with multitasking capability or to let a view seeing two or more TV channels at a time. Therefore user demands to see two or more content at a time is known in the art. Hence, it would have been obvious to modify Hooper to provide multiple video programs buffers at the playback device because it would have enable the user to watch or keep two or more programs active at the same time.

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The claims remain rejected as stated in the prior office action (mailed 8/12/2005).

**Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Dinh whose telephone number is (571) 272-3943. The examiner can normally be reached on Monday-Friday from 7:00 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached at (571) 272-3949.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Dung Dinh', with a stylized, looping flourish extending from the end.

Dung Dinh  
Primary Examiner  
May 13, 2006